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Paper No.

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**COPY MAILED**

**SEP 25 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Walker et al. : LETTER REGARDING  
Application No. 09/833,833 : PATENT TERM ADJUSTMENT  
Filed: April 12, 2001 :  
Attorney Docket No. NAN-105XC1:

This is in response to the COMMUNICATION filed July 17, 2006. Pursuant to patentees' duty of good faith and candor, patentees disclose that the initial determination of patent term adjustment under 35 U.S.C. 154(b) should be four hundred forty-two (442) days not four hundred ninety-seven (497) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred fifty-six (456) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 29, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 497 days. Applicants disclose that a period of reduction of 55 days should have been entered pursuant to 1.704(b) for their filing a response on October 22, 2001 to the Notice to File Missing Parts of Application mailed June 7, 2001.

Applicants are correct that a period of reduction should have been entered for this failure to engage in reasonable efforts to conclude prosecution. However, applicants' calculation of the

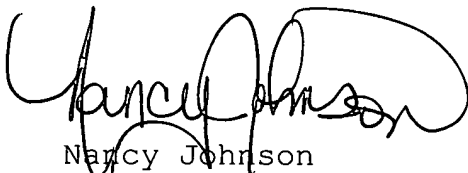
reduction is not correct. Specifically, the record confirms that applicants' complete response was received on October 18, 2001 not October 22, 2001. As the Notice was mailed on June 7, 2001, the three-month period ended September 7, 2001. As the response was filed outside the three-month period, there was a failure to engage in reasonable efforts to conclude prosecution. A period of reduction is 41 days is entered, counting the number of days in the period beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication, September 8, 2001, and ending on the date the reply was filed, October 18, 2001.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 456 days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a large, looping flourish at the end.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Wednesday

# **PALM INTRANET**

Date: 9/20/2006

Time: 20:12:03

## PTA Calculations for Application: 09/833833

|                          |            |                         |     |
|--------------------------|------------|-------------------------|-----|
| Application Filing Date: | 04/12/2001 | PTO Delay (PTO):        | 629 |
| Issue Date of Patent:    |            | Three Years:            | 0   |
| Pre-Issue Petitions:     | 0          | Applicant Delay (APPL): | 132 |
| Post-Issue Petitions:    | 0          | Total PTA (days):       | 456 |
| PTO Delay Adjustment:    | -41        |                         |     |

## File Contents History

| Number | Date       | Contents Description                                    | PTO | APPL | START |
|--------|------------|---|-----|------|-------|
| 69     | 09/20/2006 | ADJUSTMENT OF PTA CALCULATION BY PTO                    |     | 41   |       |
| 59     | 06/29/2006 | MAIL NOTICE OF ALLOWANCE                                |     |      |       |
| 58     | 06/29/2006 | MAIL EXAMINER'S AMENDMENT                               |     |      |       |
| 57     | 06/12/2006 | ISSUE REVISION COMPLETED                                |     |      |       |
| 56     | 06/09/2006 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED         |     |      |       |
| 55     | 06/09/2006 | CASE DOCKETED TO EXAMINER IN GAU                        |     |      |       |
| 54     | 06/08/2006 | EXAMINER'S AMENDMENT COMMUNICATION                      |     |      |       |
| 53     | 06/07/2006 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)          |     |      |       |
| 52     | 06/08/2006 | NOTICE OF ALLOWABILITY                                  |     |      |       |
| 51     | 04/28/2006 | DATE FORWARDED TO EXAMINER                              |     |      |       |
| 50     | 04/21/2006 | RESPONSE AFTER NON-FINAL ACTION                         |     | 10   | 48    |
| 49     | 04/21/2006 | REQUEST FOR EXTENSION OF TIME - GRANTED                 |     |      |       |
| 48     | 01/11/2006 | MAIL NON-FINAL REJECTION                                |     |      |       |
| 47     | 01/09/2006 | NON-FINAL REJECTION                                     |     |      |       |
| 46     | 12/19/2005 | DATE FORWARDED TO EXAMINER                              |     |      |       |
| 45     | 12/02/2005 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE      |     |      |       |
| 44     | 12/19/2005 | DATE FORWARDED TO EXAMINER                              |     |      |       |
| 43     | 12/02/2005 | REQUEST FOR CONTINUED EXAMINATION (RCE)                 |     | 30   | 35    |
| 42     | 12/19/2005 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) |     |      |       |
| 41     | 12/02/2005 | REQUEST FOR EXTENSION OF TIME - GRANTED                 |     |      |       |
| 40     | 12/02/2005 | WORKFLOW - REQUEST FOR RCE - BEGIN                      |     |      |       |

|    |            |   |     |    |    |
|----|------------|---|-----|----|----|
| 39 | 11/14/2005 | MAIL ADVISORY ACTION (PTOL - 303)                       |     |    |    |
| 38 | 11/09/2005 | ADVISORY ACTION (PTOL-303)                              |     |    |    |
| 37 | 11/07/2005 | DATE FORWARDED TO EXAMINER                              |     |    |    |
| 36 | 11/02/2005 | AMENDMENT AFTER FINAL REJECTION                         |     |    |    |
| 35 | 08/02/2005 | MAIL FINAL REJECTION (PTOL - 326)                       |     |    |    |
| 34 | 08/01/2005 | FINAL REJECTION   |     |    |    |
| 33 | 06/11/2005 | DATE FORWARDED TO EXAMINER                              |     |    |    |
| 32 | 06/08/2005 | RESPONSE AFTER NON-FINAL ACTION                         |     | 31 | 30 |
| 31 | 06/08/2005 | REQUEST FOR EXTENSION OF TIME - GRANTED                 |     |    |    |
| 30 | 02/08/2005 | MAIL NON-FINAL REJECTION                                |     |    |    |
| 29 | 02/07/2005 | NON-FINAL REJECTION                                     |     |    |    |
| 28 | 01/25/2005 | DATE FORWARDED TO EXAMINER                              |     |    |    |
| 27 | 01/18/2005 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE      |     |    |    |
| 26 | 01/25/2005 | DATE FORWARDED TO EXAMINER                              |     |    |    |
| 25 | 01/18/2005 | REQUEST FOR CONTINUED EXAMINATION (RCE)                 |     |    |    |
| 24 | 01/25/2005 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) |     |    |    |
| 23 | 01/18/2005 | WORKFLOW - REQUEST FOR RCE - BEGIN                      |     |    |    |
| 22 | 10/18/2004 | MAIL FINAL REJECTION (PTOL - 326)                       |     |    |    |
| 21 | 10/18/2004 | FINAL REJECTION   |     |    |    |
| 20 | 10/15/2004 | CORRESPONDENCE ADDRESS CHANGE                           |     |    |    |
| 19 | 08/16/2004 | IFW TSS PROCESSING BY TECH CENTER COMPLETE              |     |    |    |
| 18 | 08/16/2004 | DATE FORWARDED TO EXAMINER                              |     |    |    |
| 17 | 08/02/2004 | RESPONSE AFTER NON-FINAL ACTION                         |     | 61 | 13 |
| 16 | 08/02/2004 | REQUEST FOR EXTENSION OF TIME - GRANTED                 |     |    |    |
| 15 | 08/02/2004 | WORKFLOW INCOMING PETITION IFW                          |     |    |    |
| 14 | 08/02/2004 | WORKFLOW INCOMING AMENDMENT IFW                         |     |    |    |
| 13 | 03/02/2004 | MAIL NON-FINAL REJECTION                                | 629 |    | -1 |
| 12 | 02/23/2004 | NON-FINAL REJECTION                                     |     |    |    |
| 11 | 01/03/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED            |     |    |    |
| 10 | 09/24/2001 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED            |     |    |    |
| 9  | 10/12/2001 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED            |     |    |    |

|   |            |   |  |  |  |
|---|------------|---|--|--|--|
| 8 | 01/14/2002 | CASE DOCKETED TO EXAMINER IN GAU                                |  |  |  |
| 7 | 11/15/2001 | APPLICATION DISPATCHED FROM OIPE                                |  |  |  |
| 6 | 11/13/2001 | APPLICATION IS NOW COMPLETE                                     |  |  |  |
| 5 | 08/22/2001 | RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS                          |  |  |  |
| 4 | 06/07/2001 | NOTICE MAILED--APPLICATION INCOMPLETE--<br>FILING DATE ASSIGNED |  |  |  |
| 3 | 06/06/2001 | CORRESPONDENCE ADDRESS CHANGE                                   |  |  |  |
| 2 | 04/28/2001 | IFW SCAN & PACR AUTO SECURITY REVIEW                            |  |  |  |
| 1 | 04/12/2001 | INITIAL EXAM TEAM NN  |  |  |  |

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### **EXPLANATION OF PTA CALCULATION**

### **EXPLANATION OF PTE CALCULATION**

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